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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

Original via FedEx-Copy via Electronic Mail

October 22, 2020

Mr. Charles Maguire, Director
Water Quality Protection Division (6WD)
U. S. Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, Texas 75202

Re: State Certification Village of Cimarron Wastewater Treatment Plant, NM0031038

Dear Director Maguire:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit NM0031038, Cimarron Wastewater Treatment Plant. If any, comments and conditions are enclosed on separate sheets.

The U.S. Environmental Protection Agency (EPA) proposes to regulate discharges under the above referenced NPDES Individual permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) Section 401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, New Mexico Statutes Annotated (NMSA) 1978, Sections 74-6-1 to -17) and complies with the State of New Mexico Water Quality Standards, Water Quality Management Plan and Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 New Mexico Administrative Code (NMAC)), EPA jointly with the New Mexico Environment Department (NMED) issued a public notice of the draft permit and announced a public comment period posted on the NMED web site at <https://www.env.nm.gov/surface-water-quality/public-notices/> on September 19, 2020. The NMED public comment period ended on October 19, 2020 NMED did not receive any comments.

Sincerely,

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

cc: (w/ enclosures)
Evelyn Rosborough, USEPA (6WDPN) via e-mail
Brent Larsen, USEPA (6WDPE) via e-mail
Ruben Alayon-Gonzalez, USEPA (6WDPE) via e-mail
Shawn Jeffrey, Administrator Village of Cimarron, via e-mail

Mr. Ken Mc Queen, Regional Administrator
Environmental Protection Agency
1201 Elm Street, Suite 500
Dallas, TX 75202

October 22, 2020

STATE CERTIFICATION

RE: Village of Cimarron Wastewater Treatment Plant, NPDES Permit No. NM0031038

Dear Regional Administrator McQueen:

The Cabinet Secretary of the New Mexico Environment Department (NMED) has delegated signatory authority for state certifications of federal Clean Water Act permits to the Surface Water Quality Bureau Chief. NMED examined the proposed NPDES permit referenced above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico:

- ☒ (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- ☐ () certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- ☐ () denies certification for the reasons stated in the attachment
- ☐ () waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plans as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent, unless changes are in response to formal comments received by EPA and discussed with NMED prior to the finalization of the draft permit.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 819-9734, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

**State of New Mexico Comments and Conditions on the Proposed NPDES Permit
Village of Cimarron Wastewater Treatment Plant
NPDES Permit No. NM0031038
October 22, 2020**

The following conditions are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico surface water quality standards (WQS) adopted in accordance with Section 303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act (NMSA 1978, §§ 74-6-1 to -17). State of New Mexico (State) WQS are published in Title 20, Chapter 6, Part 4 of the New Mexico Administrative Code (20.6.4 NMAC), *Standards for Interstate and Intrastate Surface Waters*, as amended by the New Mexico Water Quality Control Commission (WQCC) on May 22, 2020 and approved by the U.S. Environmental Protection Agency (EPA) on July 24, 2020. Additional state WQS are published in Title 20, Chapter 6, Part 2 of the New Mexico Administrative Code (20.6.2 NMAC), *Ground and Surface Water Protection*, as amended by the WQCC on December 21, 2018.

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that permit "...limitations must control all pollutants or pollutant parameters... which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard..."

40 CFR Part 124.53(e) states that, "State certification shall be in writing and shall include: (1) Conditions which are necessary to assure compliance with the applicable provisions of CWA Sections 208(e), 301, 302, 303, 306 and 307 and with appropriate requirements of State law..."

Conditions of Certification:

1. None

Comments that are not Conditions of Certification:

1. None